(7)

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

W.P.NO. 757 OF 1995

PETITIONER

DRONA KUMAR SAHU S/O Jiwarakhan Lal Sahu, aged 24 years, Chaukidar, Raipur District Fish Farmers Development Agency, Raipur resident of Bholanagar, Raipur Tahsil and Distt. Raipur.

VERSUS

RESPONDENTS

1. RAIPUR DISTT. FISH FARMER'S DEVELOPMENT AGENCY, RAIPUR through its Chairman and Collector, Raipur , H.O. Collectorate, Raipur.

2. CHIEF EXECUTIVE OFFICER, RAIPUR DISTRICT FISH FARMERS AGENCY, RAIPUR H.O. Collectorate, Raipur.

3. THE DIRECTOR OF MATSYODHOG, Madhya Pradesh, Bhopal

4. THE GOVERNMENT OF MADHYA PRADESH through Secretary Krishi (Pashu Chikitsa) Vibhag, Bhopal.

PETITION UNDER ART. 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF AN APPROPRIATE WRIT OR ORDER OR DIRECTION IN THE NATURE OF WRIT ETC.

HIGH COURT OF CHHATTISGARH AT BILASPUR

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Writ Petition No. 757 of 1995

Petitioner : Drona Kumar Sahu

Versus

Respondents : Raipur District, Fish Farmer's Development Agency others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Shri S. P. Sharma, Advocate for the Petitioner.

None for the respondents No. 1 and 2.

Shri V. V. S. Moorthy, Deputy Advocate General with Shri I. N. Shrivastava, Panel lawyer for the respondents No. 3 and 4.

ORAL ORDER

(22nd August, 2006)

1. The petitioner was initially appointed as Contingency Paid Employee on daily wages for 89 days vide order dated 10.11.1990 (Annexure P/4). Thereafter his services was regularized vide order dated 5.3.1994 (Annexure P/8). The petitioner continued on the regular post till 28th February, 1995, when his services was terminated vide order dated 28.2.1995 (Annexure P/9), as no longer required.

2. This Court after hearing learned counsel for both the parties granted stay of the operation of the impugned order dated 28.2.1995 (Annexure P/9) vide order dated 27.3.1995. The petitioner has been continuing thereafter on the same post.

3. Shri S. P. Sharma, learned counsel appearing for the petitioner submits that the impugned order dated 28.2.1995 visits with civil consequences and since the same was passed without following the principles of natural justice and without affording any opportunity of

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hearing to the petitioner, the order deserves to be quashed on the simple ground that the order is vitiated on account of non-compliance of the principles of natural justice and fair play in action. The services of the petitioner could have been terminated on any other ground, except, strictly following the principles of natural justice and fair play in action.

4. Despite several notices to the respondents No. 1 to 2 i.e. Raipur District Fish Farmer's Development Agency, Raipur and Chief Executive Officer, Raipur District Fish Farmers Agency, Raipur, none appeared on their behalf. However, the reply was filed on 12.5.1995 on behalf of the respondents No. 1 and 2.

5. Shri V. V. S. Moorthy, learned Deputy Advocate General, assisted by Shri I. N. Shrivastava, Panel Lawyer, appearing for the respondents No. 3 and 4 submits that this case has to be contested by the respondents No. 1 and 2 as the State i.e. Respondents No. 3 and 4 have no interest in the case and there is no grievance of the petitioner against the respondents No. 3 and 4.

6. Having heard learned counsel for the parties and having perused the records appended to the petition and reply, it is evident that the impugned order was passed without following the principles of natural justice and fair play in action. It is well settled principle of law that any order which visits with the civil consequences and prejudice the case of a government employee cannot be passed without affording the opportunity of hearing to the employee concerned. In the present case it is admitted position that no opportunity of hearing was afforded to the petitioner and as such the impugned order dated 28.2.1995 (Annexure P/9) is vitiated.

7. By virtue of the stay order dated 27.3.1995 granted by this Court, the petitioner has been continuing in service and the impugned order has

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been passed without affording an opportunity of hearing to the petitioner. For the reasons stated above the impugned order dated 28.2.1995 (Annexure P/12) is quashed.

8. The petition is accordingly allowed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur